

decision on the merits or a denial of a request for review by the Appeals Council both of which constitute final decisions and can be reviewed by the federal district court. Because there was no final decision of the Commissioner there was no “final decision” for the court to review as contemplated under § 205(g). *Id.* Thus, the Court held it had no jurisdiction to review a decision when the Appeals Council has dismissed an untimely request for review and affirmed the district court for dismissing the action for that reason. *Id.* Accordingly, Defendant’s motion to dismiss is granted, and Plaintiff’s action is dismissed with prejudice.

### **RECOMMENDED DISPOSITION**

The Court recommends that Defendant’s Motion to Dismiss be granted and this case be dismissed with prejudice.



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**JOE H. GALVAN**  
**UNITED STATES MAGISTRATE JUDGE**

### **NOTICE**

Within ten days after a party is served with a copy of these proposed findings and recommended disposition that party may, pursuant to 28 U.S.C. § 636 (b)(1), file written objections to such proposed findings and recommended disposition. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.